

52.227-4

the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

Alternate I (APR 1984). As prescribed in 27.201-2(c)(2), add the following paragraph (c) to the basic clause:

(c) This patent indemnification shall not apply to the following items: _____
[Contracting Officer list and/or identify the items to be excluded from this indemnity]

Alternate II (APR 1984). As prescribed in 27.201-2(c)(2), add the following paragraph (c) to the basic clause:

(c) This patent indemnification shall cover the following items: _____

List or identify the items to be included under this indemnity

Alternate III (JUL 1995). As prescribed in 27.201-2(c)(3), add the following paragraph to the basic clause:

() As to subcontracts at any tier for communication service, this clause shall apply only to individual communication service authorizations over the simplified acquisition threshold issued under this contract and covering those communications services and facilities (1) that are or have been sold or offered for sale by the Contractor to the public, (2) that can be provided over commercially available equipment, or (3) that involve relatively minor modifications.

[49 FR 12987, Mar. 30, 1984, as amended at 56 FR 15156, Apr. 15, 1991; 60 FR 34761, July 3, 1995; 72 FR 63065, Nov. 7, 2007]

52.227-4 Patent Indemnity—Construction Contracts.

As prescribed in 27.201-2(d)(1), insert the following clause:

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PATENT INDEMNITY—CONSTRUCTION CONTRACTS (DEC 2007)

Except as otherwise provided, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

(End of clause)

Alternate I (DEC 2007). As prescribed in 27.201-2(d)(2), designate the first paragraph of the basic clause as paragraph (a) and add the following paragraph (b) to the basic clause:

(b) This patent indemnification shall not apply to the following items:

[Contracting Officer list the items to be excluded.]

[72 FR 63065, Nov. 7, 2007]

52.227-5 Waiver of Indemnity.

As prescribed in 27.201-2(e), insert the following clause:

WAIVER OF INDEMNITY (APR 1984)

Any provision or clause of this contract to the contrary notwithstanding, the Government hereby authorizes and consents to the use and manufacture, solely in performing this contract, of any invention covered by the United States patents identified below and waives indemnification by the Contractor with respect to such patents:

Contracting Officer identify the patents by number or by other means if more appropriate

(End of clause)

[49 FR 12987, Mar. 30, 1984, as amended at 72 FR 63066, Nov. 7, 2007]

52.227-6 Royalty Information.

As prescribed in 27.202-5(a)(1), insert the following provision:

ROYALTY INFORMATION (APR 1984)

(a) *Cost or charges for royalties.* When the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee: